

1 MICHAEL A. JACOBS (CA SBN 111664)
2 MJacobs@mofo.com
3 ARTURO J. GONZÁLEZ (CA SBN 121490)
AGonzalez@mofo.com
4 ERIC A. TATE (CA SBN 178719)
ETate@mofo.com
MORRISON & FOERSTER LLP
425 Market Street
5 San Francisco, California 94105-2482
Telephone: 415.268.7000
6 Facsimile: 415.268.7522

7 Attorneys for Defendants
8 UBER TECHNOLOGIES, INC.,
OTTOMOTTO LLC, and OTTO TRUCKING LLC

9 KAREN L. DUNN (*Pro Hac Vice*)
kdunn@bsflpp.com
10 HAMISH P.M. HUME (*Pro Hac Vice*)
hhume@bsflpp.com
11 BOIES SCHILLER FLEXNER LLP
1401 New York Avenue, N.W.
12 Washington DC 20005
Telephone: 202.237.2727
13 Facsimile: 202.237.6131

14 Attorneys for Defendants
15 UBER TECHNOLOGIES, INC.
and OTTOMOTTO LLC

16 UNITED STATES DISTRICT COURT
17 NORTHERN DISTRICT OF CALIFORNIA
18 SAN FRANCISCO DIVISION

19
20 WAYMO LLC,

21 Plaintiff,

22 v.

23 UBER TECHNOLOGIES, INC.,
OTTOMOTTO LLC, and OTTO TRUCKING
24 LLC,

25 Defendants.

Case No. 3:17-cv-00939-WHA

**DECLARATION OF SAMEER
KSHIRSAVAR IN SUPPORT OF
DEFENDANTS' OPPOSITION TO
WAYMO'S MOTION FOR
PRELIMINARY INJUNCTION**

Date: May 3, 2017
Time: 7:30 a.m.
Crm: 8, 19th Floor
Judge: The Honorable William Alsup

Trial Date: October 2, 2017

28 **REDACTED VERSION OF DOCUMENT SUBMITTED UNDER SEAL**

1 I, Sameer Kshirsagar, declare as follows:

2 1. I am Director of Global Product Operations for Uber Technologies, Inc.'s ("Uber")
 3 Advanced Technologies Group and served in the same function for Ottomotto LLC ("Otto") and
 4 Otto Trucking LLC before Uber's acquisition of Otto in August 2016. I understand that Waymo
 5 has filed a lawsuit against Uber and Otto in the U.S. District Court for the Northern District of
 6 California. I submit this declaration in support of Uber and Otto's Opposition to Waymo LLC's
 7 ("Waymo") Motion for Preliminary Injunction. I have personal knowledge of the facts set forth
 8 in this declaration and, if called to testify as a witness, could and would do so competently.

9 2. I joined Otto on July 25, 2016, as its Director of Supply Chain. After Uber
 10 completed its acquisition of Otto, in October 2016, my title changed to Director of Technical
 11 Product Operations. In January 2017, my title changed to Director of Global Product Operations
 12 at Uber.

13 3. Prior to joining Otto, I was a Global Supply Manager in Google's Self-Driving
 14 Cars division, now Waymo, from August 2015 to July 2016. I first joined Google's Self-Driving
 15 Car division as a Manufacturing Engineer in March 2015.

16 4. I signed an offer letter when I joined Otto, and signed another offer letter with
 17 Uber when it acquired Otto. Both letters included provisions regarding third-party intellectual
 18 property ("IP") and confidential information, instructing employees not to bring with them and
 19 use the IP and/or confidential information of any other companies. My Otto offer letter provided
 20 that "Company does not want you to, and hereby directs that you must not, bring to Company, or
 21 otherwise use in connection with performing any services on behalf of the Company, any
 22 intellectual property rights or other proprietary or confidential material or information of any
 23 former employer or other third party. Accordingly by signing this Offer Letter you represent and
 24 warrant that you will not bring to Company, or otherwise use in connection with performing any
 25 services on behalf of the Company, any intellectual property rights or other proprietary or
 26 confidential material or information of any former employer or other party." My Uber offer letter
 27 similarly provided that "In connection with your Employment, you shall not use or disclose any

1 trade secrets or other proprietary information or intellectual property in which you or any other
 2 person has any right, title or interest and your Employment will not infringe or violate the rights
 3 of any other person. You represent and warrant to the Company that you have not taken, and
 4 have returned, all property and confidential information belonging to any prior employer.”

5 Attached as Exhibits 1-2 to this Declaration are copies of my signed offer letters.

6 5. I have reviewed the allegations about me in the redacted versions of the
 7 Declarations of Gary Brown and Tim Willis in Support of Waymo’s Motion for a Preliminary
 8 Injunction (“Brown Declaration” and “Willis Declaration”).

9 6. I did not take any confidential Google/Waymo documents with me upon my
 10 departure from Google/Waymo for use at Uber and/or Otto. I have not used any confidential
 11 Google/Waymo documents or information in my work for Uber and/or Otto. I was never directed
 12 by anyone, at Uber or Otto, or otherwise, to take confidential documents or information from
 13 Google or Waymo.

14 7. When I joined Otto (and after Uber’s acquisition of Otto), I spent much of my time
 15 building, structuring, and integrating new and existing employees into my department. The
 16 majority of the employees in my department did not come from Waymo or Google.

17 8. The Brown Declaration and Willis Declaration allege that I exported five
 18 documents from Google Drive in June and July 2016, as listed below:

19 **Brown Declaration, Paragraphs 24-28; Willis Declaration, Paragraph 7**

- 20 • [REDACTED]
 21 [allegedly exported on June 3, 2016] (**Willis Decl. Ex. B**) (“Laser
 questions”)
- 22 • [REDACTED]
 23 [allegedly exported on June 14, 2016] (**Willis Decl. Ex. C**)
 (“Ramp Checklist”)
- 24 • [REDACTED]
 25 [allegedly
 exported on June 21, 2016] (**Willis Decl. Ex. D**) (“and Packaging”)
- 26 • [REDACTED]
 27 [allegedly
 exported on June 22, 2016] (**Willis Decl. Ex. E**) (“Lens Placement-01”)

1 • [REDACTED] [allegedly
 2 exported on July 12, 2016] (**Willis Decl. Ex. F**) (“All things”)

3 9. In response to Paragraphs 24-28 of the Brown Declaration and Paragraph 7 of the
 4 Willis Declaration, I did not take copies of the identified documents with me from Waymo for use
 5 at Uber or Otto.

6 10. I have provided my personal phone, my work-issued phone, and my work-issued
 7 laptop to counsel for forensic examination.

8 11. Two of the documents – Willis Decl. Exs. D and E, the “and Packaging” and
 9 “Lens Placement-01” documents, respectively – were documents I created during the course of
 10 my work at Waymo. After I created them, I continued to access them through my Waymo-issued
 11 laptop as part of my job responsibilities. When I announced my intent to leave Waymo, I was
 12 asked by Tim Willis to create a transition memorandum and collect transition documents to
 13 transition my responsibilities to my successors, Aurelien Chouard, Daniel Munoz, and Jai
 14 Krishnan. That memorandum has been produced in this case and is attached hereto as Exhibit 3.
 15 As part of this process, I reviewed certain documents, including the ones that are identified in the
 16 Brown and Willis Declarations as “and Packaging” (Willis Decl. Ex. D) and “Lens Placement-
 17 01” (Willis Decl. Ex. E). The “and Packaging” document is one in which I compared three
 18 potential vendors to determine the best path forward. The “Lens Placement-01” document was a
 19 statement of work, or SOW, which I created and then updated at the request of Tim Willis, who
 20 asked me to document the current status of my work relative to lens placement automation with a
 21 vendor named [REDACTED] [REDACTED]. Both of these documents are referenced in the
 22 transition memorandum. The “and Packaging” document is referred to by title on page 2 of the
 23 transition memorandum, in the second bullet, third sub-bullet. It is underlined, indicating that it is
 24 hyperlinked to the document itself. The “Lens Placement-01” document would have informed
 25 the second bullet, second sub-bullet on page 1, which says “[REDACTED] SOW for the Lens Placement
 26 Automation has been fully executed and PO’s are being placed.”

27 12. The transition memorandum was created for the purpose of my successors. When
 28

1 I left Waymo, I turned in my Waymo-assigned laptop and phone to Derek Ivy at Waymo's
 2 TechStop. I did not take the transition memorandum or transition documents with me.

3 13. With respect to the "Ramp Checklist" (Willis Decl. Ex. C), this was a file that,
 4 although I do not have a specific recollection of doing so, I believe that I may have forwarded to
 5 my personal phone in order to review it in the course of my work at Waymo. The "Ramp
 6 Checklist" document was prepared to assist Waymo in documenting a process that could support
 7 transitioning hardware ownership from the development team to the commercial team. I needed
 8 to read and understand this document to assist in the transition, and give feedback to my
 9 successors and others who had recently joined the team. I have not accessed this file since
 10 leaving Waymo. I have provided my personal phone to my legal counsel so that the phone can
 11 undergo forensic examination and this document can be returned to Waymo.

12 14. With respect to the "All Things" document (Willis Decl. Ex. F), I believe this was
 13 one document in a three-part series that would have been prepared for a weekly presentation that I
 14 and my counterparts supporting the LiDAR team could attend for the purpose of listening,
 15 technical growth, and improving my ability to support the team in the course of my work at
 16 Waymo, not for any future use. I do not have a specific recollection of accessing this document.
 17 I do recall accessing another document in this three-part series, and I may have forwarded that
 18 document to my personal phone to review it in the course of my work. I have not accessed this
 19 file since leaving Waymo. I have provided my personal phone to my legal counsel so that the
 20 phone can undergo forensic examination and this document can be returned to Waymo.

21 15. **Willis Decl. Ex. B**, the "Laser Questions" document, appears to have been
 22 prepared by a Waymo LiDAR team member for a weekly presentation that I and my counterparts
 23 supporting the LiDAR team could attend for the purpose of listening, technical growth, and
 24 improving my ability to support the team. This is a file that, although I do not have a specific
 25 recollection of doing so, I believe I would have accessed simply to read it in the course of my
 26 employment at Waymo. If it was a document forwarded to my personal phone as part of my
 27 work at Waymo, I have provided my personal phone, my work-issued phone, and work-issued
 28

1 laptop to counsel for forensic examination. If it was a document downloaded to my Waymo-
 2 assigned laptop as part of my work at Waymo, I turned in that laptop to Derek Ivy at the
 3 TechStop when I left Waymo.

4 16. I have not used any information from the files listed in Paragraphs 24-28 of the
 5 Brown Declaration and Paragraph 7 of the Willis Declaration in my work at Uber and Otto.

6 17. I understand that Waymo's First Amended Complaint alleges in Paragraphs 51-52
 7 that a former Waymo supply chain manager knew of the identity of an allegedly confidential
 8 vendor that Waymo ultimately engaged to provide manufacturing services. I do not know which
 9 vendor is referenced in these allegations, nor do I know which vendors Waymo ultimately
 10 engaged after July 2016.

11 18. Furthermore, I have not made any decisions regarding suppliers or vendors for
 12 Uber or Otto based on confidential information obtained from Google or Waymo. Before my
 13 arrival at Otto, the LiDAR team at Otto had already established relationships with certain
 14 vendors. Due to the growth of my team, I am not directly involved in choosing vendors for the
 15 LiDAR team. I have not given the LiDAR team, or my team, any confidential vendor
 16 information.

17 19. I note that vendor information is publicly available from forums such as the annual
 18 SPIE Photonics West convention at San Francisco's Moscone Center, which is one of the largest
 19 photonics technologies events in the world. Many vendors that provide components and services
 20 for LiDAR technology have exhibits and public demonstrations at events such as Photonics West.
 21 There were 1,300 companies at the most recent expo, which occurred from January 31 to
 22 February 2, 2017, which I attended. Additionally, I believe a number of high technology
 23 companies, including Apple, have published lists of their top vendors that are publicly available
 24 on their websites.

25 20. Before this lawsuit, I had never heard of the 14,000 files Waymo alleges that
 26 Anthony Levandowski downloaded.

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1 I declare under penalty of perjury under the laws of the United States of America that the
2 foregoing is true and correct. Executed this 6th day of April, 2017, at San Francisco, California.
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6 Sameer Kshirsagar
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